

## Purchase Order Terms and Conditions

This Purchase Order is subject to the terms and conditions of the master agreement in effect between the parties, if any. If the parties do not have a separate master agreement in effect on the date of this Purchase Order, then the following terms and conditions and those specified on the face of this Purchase Order shall govern the purchase of all Materials and Services covered by this Purchase Order.

1. Offer and Acceptance. This Purchase Order constitutes an offer by Buyer to purchase the Materials or Services specified herein. Buyer reserves the right to revoke this offer at any time prior to its acceptance. If no acceptance has taken place within fifteen (15) days of the date of this Purchase Order, then the offer to purchase contained herein shall (unless extended in writing signed by Buyer) expire. Acceptance of the offer contained herein by Seller may be accomplished by either (a) return of an executed acknowledgement copy of this Purchase Order within fifteen (15) days after the date of this Purchase Order, or (b) receipt by Buyer of Materials or Services conforming in all respects to the terms and conditions set forth herein (either of which must occur prior to Buyer's revocation of this Purchase Order). Seller may not, through execution of the acknowledgement, alter or vary the terms contained in a submitted Purchase Order. Any such alterations shall constitute a counteroffer by Seller, which shall be binding on Buyer if and only if such alterations are accepted in writing by Buyer.

2. Materials Shipment, Packaging and Packing.

(a) Seller shall properly package and pack Materials such that the Materials are not damaged or destroyed during shipment. Each shipment shall be labeled clearly to indicate Buyer's applicable Purchase Order number(s), part number(s) and quantities. A packing list for each Purchase Order, that details line items and quantities in accordance with such Purchase Order, shall accompany each delivery.

(b) THE TIME(S) AND DATE(S) OF DELIVERY SET FORTH IN THIS PURCHASE ORDER ARE OF THE ESSENCE. Seller shall notify Buyer immediately when Seller has knowledge of any potential delay in delivery. Buyer may refuse delivery of Materials made more than twenty-four (24) hours prior to the time and date for delivery specified herein and may (1) return such Materials at Seller's expense (in which event Seller shall nevertheless be obligated to deliver such Materials within twenty-four (24) hours of the time and date for delivery set forth herein) or (ii) retain such Materials and postpone payment until it would have been due if Seller had delivered Materials as required by this Purchase Order. Unless otherwise indicated on the face hereof, delivery shall be to the destination identified by Buyer and Seller shall be responsible for all shipping costs.

(c) Title to and risk of loss respecting the Materials shall pass to Buyer upon delivery of such Materials to the location designated by Buyer and, if Seller is required to install and/or test the Materials under this Purchase Order, completion of installation and testing of such Materials by Seller. Seller agrees that it shall convey title to such Materials to Buyer free and clear of all liens, encumbrances and claims of any nature whatsoever. Upon delivery of the Materials, Seller shall, at Buyer's written request, provide Buyer with evidence reasonably satisfactory to Buyer that all security interests or liens in and to the Materials have been released or waived.

(d) Seller shall be responsible for assuring that the quantity of Materials delivered is consistent with the quantity requested in this Purchase Order. If the quantity delivered varies from the quantity ordered, Buyer shall not be obligated to (but may, at its election) accept delivery thereof, and Seller shall remain responsible for satisfaction of the unfulfilled portion of this Purchase Order. In any such event, Buyer shall only pay for the quantities of Materials actually shipped.

3. Invoices, Payment and Set—Off.

(a) Buyer agrees to pay to Seller the price set forth herein for the Materials delivered or Services rendered Seller shall deliver to Buyer (by mail, telecopier, or electronically) an invoice for all Materials delivered or Services rendered, which invoice shall set forth or contain (i) a description of the Materials delivered or Services rendered, (ii) the locations to which such Materials were delivered or Services were rendered and the date of delivery; and (iii) the price for all such Materials delivered or Services rendered. Unless more favorable terms appear on Seller's invoice to Buyer (in which event such terms shall govern Buyer's payment hereunder), payment of the price for Materials or Services (less any credits to which Buyer is entitled) shall be made no later than the last to occur of forty-five (45) days after (i) the date of delivery of the invoice, or (ii) acceptance by Buyer of the Materials delivered or Services rendered.

(b) Buyer may deduct from any amounts due or to become due to Seller, any sum or sums owing by Seller to Buyer. In the event of any breach by Seller of any part of this Purchase Order or any other Purchase Order between Buyer and Seller, or in the event of any lien, claim or other liability asserted against Buyer or the Materials or Services, Buyer shall have the right to retain out of any payments due or to become due to Seller an amount sufficient (as determined by Buyer) to completely protect Buyer from damage resulting therefrom, until the lien, claim or liability has been resolved to the satisfaction of Buyer.

(c) Buyer shall pay all applicable sales and use taxes respecting Buyer's purchase of the Materials or Services, including, without limitation, penalties and interest, which may be imposed by any federal, state, or local governmental or taxing authority.

4. Inspection and Acceptance.

(a) Buyer or its agent shall be permitted to inspect and conduct appropriate tests on the Materials delivered or Services rendered hereunder, and shall be entitled to reject any Materials delivered or Services rendered which do not meet the requirements of this Purchase Order and any applicable specifications, drawings, samples and descriptions referred to in this Purchase Order. No acceptance, deemed acceptance of Materials or Services shall relieve Seller of its obligations respecting the quantity, quality and specifications respecting the Materials delivered, Services rendered or Seller's warranty respecting such Materials or Services. Within sixty (60) days after delivery Buyer may return non-conforming Material to Seller for credit, refund of purchase price or replacement at Buyer's option, with Seller bearing all costs and risk of loss. Seller shall authorize return of non-conforming Material within twenty-four (24) hours of notification of rejection.

(b) Seller authorizes Buyer to perform source inspection and process control audits at Seller's facilities, but this shall in no way relieve Seller of its obligation to deliver conforming Material or waive Buyer's right of rejection at its destination.

5. Warranty.

(a) Seller warrants that all Materials purchased and delivered and all Services rendered hereunder shall conform to the specifications, drawings, samples and descriptions referred to in this Purchase Order. Seller further warrants that all Materials purchased, delivered and installed (if applicable) hereunder shall be new of good quality and workmanship, and free from defects in material and workmanship for the greater of (i) the duration of Seller's standard warranty respecting such Materials, or (ii) one (1) year after acceptance of the Materials by Buyer.

(b) In the event of a breach of the foregoing warranties with respect to any Materials or Services, Seller shall replace such Materials or reperform such Services at Seller's expense, and Seller shall reimburse Buyer for the reasonable and actual costs incurred in (1) removing the defective Materials and replacing such defective Materials with the replacement Materials delivered by Seller, and/or (ii) making accommodations for Seller's reperformance of the defective Services. Seller shall be permitted to test the allegedly defective Materials, or to evaluate the performance of the Services, to confirm the alleged defect.

(c) SELLER MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH IN THIS PURCHASE ORDER.

6. Termination for Cause.

(a) The occurrence of any of the following constitutes a breach and is cause for Buyer's termination of this Purchase Order.

1. Seller fails to deliver and install (if applicable) Material or perform the Services on time.
2. Materials or Services do not conform to the applicable descriptions or specifications.
3. Seller fails to perform any material provision of this Purchase Order.
4. Seller assigns this Purchase Order, or any obligation or right hereunder, without the advance written consent of Buyer (the word "assign" to include, without limitation, a transfer of a controlling ownership interest in Seller or a merger with any unaffiliated third party).
5. Seller becomes insolvent or makes an assignment for the benefit of creditors, or a receiver or similar officer is appointed to take charge of all or part of Seller's assets.

(b) Seller must cure any of the above breaches, except late delivery pursuant to paragraph 1 of section (a) above (for which there shall be no cure period), and notify Buyer of such cure within thirty (30) days from receipt of a notice to cure from Buyer. If Seller fails to so cure, Buyer may terminate this Purchase Order by giving Seller written notice. Buyer shall have no liability except for payment of any balance due for conforming Material or Services delivered and accepted before the date of termination hereof.

7. Termination for Convenience. Buyer may terminate this Purchase Order in whole or in part at any time for convenience. Upon notice of termination, Seller shall stop work as directed by Buyer. Thereafter, in the event of a termination relating to the delivery of Materials, Seller shall submit promptly, but in no event later than thirty (30) days from the effective date of termination, its termination claim in writing to Buyer. Such termination claim shall be limited to the actual costs incurred by Seller properly allocable under recognized commercial accounting practices to the terminated portion of the Purchase Order, excluding any charges for interest or Materials or parts which can be delivered or diverted to other customers of Seller. In no event will Seller be paid anticipatory profits. The total of such claim shall not exceed the pro rata portion of the price for the Purchase Order that is terminated. All completed or partially completed items and all Materials for which compensation is paid to Seller upon termination shall become the property of Buyer. No termination charge shall be due with respect to Services that have not been provided under a terminated Purchase Order.

8. Indemnity. Seller shall defend, indemnify and hold harmless Buyer from and against any and all claims, suits, liabilities, expenses, attorney's fees or damages (collectively "Claims") for any alleged or actual infringement or violation of any copyright, patent or patented right, or other intellectual or proprietary rights arising in connection with this Agreement and any act or omission hereunder.

9. Insurance. Prior to the delivery of the Materials or Services, Seller shall procure and thereafter maintain, with insurers acceptable to Buyer, the following minimum insurance protecting Seller and Buyer against liability from damages because of injuries, including death, suffered by persons, including employees of Buyer, and liability from damages to property arising from or growing out of Seller's operations in connection with the performance of this Purchase Order:

COVERAGE	LIMITS
Commercial General Liability	\$5,000,000 General/Aggregate \$1,000,000 Products/Completed Operations Aggregate \$1,000,000 Combined Limit/Each Occurrence
Comprehensive Automobile Liability (Owned, Hired and Non-Owned Vehicles)	\$2,000,000 Each Accident

Workers' Compensation	Applicable Statutory Requirements
Employer's Liability	\$100,000 Each Accident \$500,000 Disease Aggregate \$100,000 Disease/Each Employee
Errors and Omissions	\$5,000,000 General/Aggregate
Product Liability	\$5,000,000 General/Aggregate

Seller shall provide certificates evidencing such insurance prior to beginning delivery of Materials or Services on a form reasonably required by Buyer. Buyer and any other parties reasonably requested by Buyer shall be listed as additional insureds under the foregoing Commercial General Liability and Comprehensive Automobile Liability insurance policies, and Seller shall cause its insurance carrier to waive all rights of subrogation against Buyer on the policies listed above. Seller shall require all authorized subcontractors to carry insurance coverage similar to that described above.

**10. Confidential Information and Advertising.**

(a) Seller shall maintain as confidential and shall not disclose to any person outside its employ, nor use for purposes other than performance of this Purchase Order, any specifications, drawings, blueprints, data, business information, or other confidential information which Seller learns by virtue of this Purchase Order. Upon termination of this Purchase Order, Seller shall promptly return to Buyer all such information and all copies thereof.

(b) Without Buyer's prior written consent, Seller shall not in any manner disclose, advertise, or publish the existence or terms of, or transactions under, this Purchase Order. No press releases shall be issued respecting this Purchase Order.

(c) Buyer may reproduce and use Seller's manuals, schematics, and merchandising literature provided by Seller under this Purchase Order for Buyer's internal use.

**11. General.**

(a) The provisions of this Purchase Order may be amended or waived only by a writing signed by authorized representatives of both parties. No waiver by any party of any right or remedy under this Purchase Order shall be deemed to be a waiver of any other or subsequent right or remedy under this Purchase Order.

(b) Seller is an independent contractor and not an agent or employee of Buyer. Without limiting the foregoing, Seller is not authorized to represent or make any commitments on behalf of Buyer, and Buyer expressly disclaims any liability therefor.

(c) All rights and remedies conferred by this Purchase Order, by any other instrument, or by law are cumulative and may be exercised singularly or concurrently. If any provision of this Purchase Order is held invalid by any law or regulation of any government or by any court, such invalidity shall not affect the enforceability of other provisions herein. This Purchase Order shall be governed by and interpreted in accordance with the laws of the state of Colorado.

(d) This Purchase Order, including all attachments hereto, constitutes the entire and exclusive agreement between the parties relating to the specific matters covered herein. All prior or contemporaneous verbal or written agreements, understandings, representations and/or practices relative to the foregoing are hereby superseded, revoked and rendered ineffective for any purpose. This Purchase Order may be altered, amended or revoked only by an instrument in writing signed by each party hereto, no language on a party's preprinted forms shall (except as otherwise expressly stated herein) amend, modify, control or otherwise affect this Purchase Order. No verbal agreement or implied covenant shall be held to vary the terms hereof, any statute, law or custom to the contrary notwithstanding.